

2. Is EPA aware of widespread (or any instances) where current Class 2 or statutory mixture language has been abused or used to circumvent Section 5 by allowing entirely new chemicals to market without going through the pmn process?

EPA has taken a limited number of enforcement actions related to overly broad interpretation of the coverage of Class 2 chemicals on the Inventory. In addition, many manufacturers have sought confirmation from EPA that chemicals they intend to manufacture are covered by Class 2 chemicals on the Inventory and not subject to PMN requirements. In many of these cases, the Agency has responded that PMNs would be required.

From: Karakitsos, Dimitri (EPW) [mailto:Dimitri_Karakitsos@epw.senate.gov]

Sent: Thursday, March 03, 2016 1:53 PM

To: Kaiser, Sven-Erik <Kaiser.Sven-Erik@epa.gov>

Subject: TA on nomenclature

Sven – there seems to be continued confusion over the Senate’s nomenclature provisions. I know you all are working on a lot for us and we appreciate it but wanted to ask if someone could fairly quickly respond to two specific questions that are designed to be easy answers.

1. Is the Senate nomenclature language, both Class 2 and statutory mixtures, simply codifying EPA’s current practice with regards to those substances?
2. Is EPA aware of widespread (or any instances) where current Class 2 or statutory mixture language has been abused or used to circumvent Section 5 by allowing entirely new chemicals to market without going through the pmn process?

Any help with this would be much appreciated.

Thanks,

Dimitri

Message

From: Kaiser, Sven-Erik [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AC78D3704BA94EDBBD0DA970921271FF-SKAISER]
Sent: 12/1/2016 3:16:41 PM
To: Black, Jonathan (Tom Udall) [Jonathan_Black@tomudall.senate.gov]; Jones, Jim [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c32c4b9347004778b0a93a4cbd83fc8a-JJONES1]
Subject: RE: Bipartisan Group of Senators Urge Smooth Transition for Chemical Safety Reform Implementation in New Administration

checking

Sven-Erik Kaiser
U.S. EPA
Office of Congressional and Intergovernmental Relations
1200 Pennsylvania Ave., NW (1305A)
Washington, DC 20460
202-566-2753

From: Black, Jonathan (Tom Udall) [mailto:Jonathan_Black@tomudall.senate.gov]
Sent: Thursday, December 01, 2016 10:13 AM
To: Jones, Jim <Jones.Jim@epa.gov>
Cc: Kaiser, Sven-Erik <Kaiser.Sven-Erik@epa.gov>
Subject: RE: Bipartisan Group of Senators Urge Smooth Transition for Chemical Safety Reform Implementation in New Administration

Thanks!

Any idea who to actually send it to? We sent it over through USPS and to a GSA web email for the Transition team, but would like to get it to a real live person.

From: Jones, Jim [mailto:Jones.Jim@epa.gov]
Sent: Thursday, December 01, 2016 10:11 AM
To: Black, Jonathan (Tom Udall) <Jonathan_Black@tomudall.senate.gov>
Subject: Fwd: Bipartisan Group of Senators Urge Smooth Transition for Chemical Safety Reform Implementation in New Administration

Nice!

Sent from my iPhone

Begin forwarded message:

From: "Kaiser, Sven-Erik" <Kaiser.Sven-Erik@epa.gov>
Date: December 1, 2016 at 6:55:51 AM PST
To: "Jones, Jim" <Jones.Jim@epa.gov>, "Cleland-Hamnett, Wendy" <Cleland-Hamnett.Wendy@epa.gov>, "Morris, Jeff" <Morris.Jeff@epa.gov>, "Cunningham-HQ, Barbara" <Cunningham-HQ.Barbara@epa.gov>, "Strauss, Linda" <Strauss.Linda@epa.gov>, "Schmit, Ryan" <schmit.ryan@epa.gov>, "Distefano, Nichole" <DiStefano.Nichole@epa.gov>, "Brown, Tristan" <Brown.Tristan@epa.gov>
Subject: Bipartisan Group of Senators Urge Smooth Transition for Chemical Safety Reform Implementation in New Administration

FYI

Sven-Erik Kaiser
U.S. EPA
Office of Congressional and Intergovernmental Relations
1200 Pennsylvania Ave., NW (1305A)
Washington, DC 20460
202-566-2753

From: Black, Jonathan (Tom Udall) [mailto:Jonathan_Black@tomudall.senate.gov]
Sent: Thursday, December 01, 2016 9:41 AM
To: Kaiser, Sven-Erik <Kaiser.Sven-Erik@epa.gov>
Subject: FW: Bipartisan Group of Senators Urge Smooth Transition for Chemical Safety Reform Implementation in New Administration

From: Tom Udall Press Office
Sent: Wednesday, November 30, 2016 5:34 PM
To: Tom Udall Press Office <NEWS_PressOffice@tomudall.senate.gov>
Subject: Bipartisan Group of Senators Urge Smooth Transition for Chemical Safety Reform Implementation in New Administration



FOR IMMEDIATE RELEASE
November 30, 2016

Contact:
Jennifer Talhelm (Udall), 202.228.6870, news_pressoffice@tomudall.senate.gov

Bipartisan Group of Senators Urge Smooth Transition for Chemical Safety Reform Implementation in New Administration
In Letter to Trump Transition Team, Senators Call on New Administration to 'Maintain Momentum' on TSCA Reform

WASHINGTON — Today, U.S. Senators Tom Udall (D-N.M.) and James Inhofe (R-Okla.), along with Senators Cory Booker (D-N.J.), Shelley Moore Capito (R-W.V.), Tom Carper (D-Del.), Mike Crapo (R-Idaho), Edward J. Markey (D-Mass.), Jeff Merkley (D-Ore.), and Sheldon Whitehouse (D-R.I.) sent a bipartisan letter to Vice President-elect Mike Pence in his role as chair of the Presidential Transition Team Executive Committee, urging the new administration to ensure there is continuity in the implementation of the landmark, bipartisan Frank R. Lautenberg Chemical Safety for the 21st Century Act. The historic chemical safety law, which was signed into law in June with broad bipartisan support, reforms the badly broken Toxic Substances Control Act (TSCA) of 1976 and is focused on protecting children, families and communities from potentially dangerous chemicals.

As the senators wrote, "TSCA was severely crippled in the 1990s and failed to provide basic health and safety protection for the American public. Uncertainty in the regulatory program also harmed innovation and consumer confidence in everyday products. The reformed law requires the Environmental Protection Agency (EPA) to make many critical decisions in the first months and years of the program, and the Agency has a crucial role to play in ensuring that the promise of the new law is realized. The updated law also directs the Centers for Disease Control to investigate and respond to potential cancer clusters and improve communication and data sharing between local, state and federal governments. Given that this implementation will overlap with the change of Administrations, we want to ensure there is continuity and continued momentum during this critical phase."

In the letter, the senators stressed the importance of communication between the presidential transition team and the EPA to ensure successful implementation of the critical reform law, which will safeguard public health and the environment and bolster confidence in the marketplace for manufactures and consumers alike. They noted that the EPA yesterday announced ahead of schedule the first 10 chemicals for risk evaluation, as required by the new law.

"We want to work with you next year to see this bipartisan law succeed," **the senators concluded.** "In order for that to happen, we urge that you begin working with the Agency to communicate on critical steps that are underway and to get a full appreciation of the new law's deadlines. We urge that you view appointments, funding and staffing to this office with utmost importance. It is essential to maintain momentum during the Presidential transition and in the early months of the new Administration to ensure that this new law is successful."

The full text of the letter is available below and [here](#).

Dear Mr. Vice President-Elect:

As you continue the transition process, we want to highlight for you the implementation of the Frank R. Lautenberg Chemical Safety for the 21st Century Act. This bill to reform the Toxic Substances Control Act (TSCA) of 1976 was signed by the President on June 22, 2016. The badly needed reforms were widely supported in Congress by a 403-12 vote in the House of Representatives and by voice vote in the Senate with near unanimous support. The effort took several years to complete, resulting in the most recent reform of a landmark environmental law since the 1990 Clean Air Act amendments.

TSCA was severely crippled in the 1990s and failed to provide basic health and safety protection for the American public. Uncertainty in the regulatory program also harmed innovation and consumer confidence in everyday products. The reformed law requires the Environmental Protection Agency (EPA) to make many critical decisions in the first months and years of the program, and the Agency has a crucial role to play in ensuring that the promise of the new law is realized. The updated law also directs the Centers for Disease Control to investigate and respond to potential cancer clusters and improve communication and data sharing between local, state and federal governments. Given that this implementation will overlap with the change of Administrations, we want to ensure there is continuity and continued momentum during this critical phase.

Having worked to strengthen and pass the Lautenberg Act in order to help protect children and communities from dangerous chemicals, we are now looking to EPA to vigorously implement the new law. This includes moving expeditiously to identify and address chemicals with the greatest potential impact on public health, especially those affecting vulnerable populations expressly required to be protected in the Act, including pregnant women, children, workers, and other at-risk communities. The EPA announced the first ten chemicals for risk evaluation ahead of schedule. Successful implementation of this law will also help ensure there is certainty and restore confidence in the marketplace for manufacturers, consumer product producers, and the public.

We want to work with you next year to see this bipartisan law succeed. In order for that to happen, we urge that you begin working with the Agency to communicate on critical steps that are underway and to get a full appreciation of the new law's deadlines. We urge that you view appointments, funding and staffing to this

office with utmost importance. It is essential to maintain momentum during the Presidential transition and in the early months of the new Administration to ensure that this new law is successful.

###

Message

From: Kaiser, Sven-Erik [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AC78D3704BA94EDBBD0DA970921271FF-SKAISER]
Sent: 3/22/2016 7:18:30 PM
To: 'Freedhoff, Michal (Markey)' [Michal_Freedhoff@markey.senate.gov]
Subject: Sen. Markey TSCA TA - another 6(a) alternative

Michal,

This TA responds to the request to review a 6(a) option dealing with section 18 and (c)(2) references.

OPTION 2

- (a) **SCOPE OF REGULATION.** —If the Administrator finds that there is a reasonable basis to conclude determines in accordance with subsection (b)(4)(A) that the manufacture, processing, distribution in commerce, use, or disposal of a chemical substance or mixture, or that any combination of such activities, presents an unreasonable risk of injury to health or the environment, the Administrator shall by rule, and subject to section 18 and in accordance with subsection (c)(2), apply one or more of the following requirements to such substance or mixture to the extent necessary to protect adequately against such risk using the least burdensome requirements so that the chemical substance does not present such a risk under the conditions of use.:

Does this version address the question you had about why section 18 is there and how it might intersect with a redundant (c)(2) reference? For your context, the subject to section 18 is there to basically address the Geier case, namely that one element of that case involved a court dismissing a state tort action on a car safety matter on preemption grounds despite the existence of a tort savings clause in the motor vehicle safety act.

The changes you suggest do help address the specific issue we identified in our most recent TA -- the suggestion that section 18 and 6(c)(2) are on the same footing as limitations on EPA's authority. However, it does not address our long standing point that we think the reference to section 18 in this context is unnecessary and confusing. We understand your point about addressing Geier, but we think section 18 already does that (and if it doesn't, it's hard to see how a reference to it in section 6 would). The reference to section 18 in section 6(c) of the offer indicates that EPA's *authority* to promulgate rules under section 6(c) is limited in some way by section 18, which we do not understand to be your intent. Presumably, you mean to say that the *preemptive effect* of any rules EPA promulgates under section 6(c) is subject to section 18. (And, again, we don't really see the value of making such a point in section 6, since section 18 already provides that it governs the preemptive effect of section 6 rules, and has whatever effect it has with respect to Geier.)

Please let me know if any questions. Thanks,
Sven

Sven-Erik Kaiser
U.S. EPA
Office of Congressional and Intergovernmental Relations
1200 Pennsylvania Ave., NW (1305A)
Washington, DC 20460
202-566-2753

From: Freedhoff, Michal (Markey) [mailto:Michal_Freedhoff@markey.senate.gov]
Sent: Monday, March 21, 2016 12:17 PM
To: Kaiser, Sven-Erik <Kaiser.Sven-Erik@epa.gov>
Subject: another 6(a) alternative

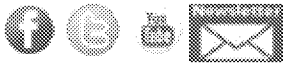
OPTION 2

(a) **SCOPE OF REGULATION.** —If the Administrator finds that there is a reasonable basis to conclude determines in accordance with subsection (b)(4)(A) that the manufacture, processing, distribution in commerce, use, or disposal of a chemical substance or mixture, or that any combination of such activities, presents an unreasonable risk of injury to health or the environment, the Administrator shall by rule, and subject to section 18 and in accordance with subsection (c)(2), apply one or more of the following requirements to such substance or mixture to the extent necessary to protect adequately against such risk using the least burdensome requirements so that the chemical substance does not present such a risk under the conditions of use.

Does this version address the question you had about why section 18 is there and how it might intersect with a redundant (c)(2) reference? For your context, the subject to section 18 is there to basically address the Geier case, namely that one element of that case involved a court dismissing a state tort action on a car safety matter on preemption grounds despite the existence of a tort savings clause in the motor vehicle safety act.

Michal Ilana Freedhoff, Ph.D.
Director of Oversight & Investigations
Office of Senator Edward J. Markey
255 Dirksen Senate Office Building
Washington, DC 20510
202-224-2742

Connect with Senator Markey



Message

From: Kaiser, Sven-Erik [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AC78D3704BA94EDBBD0DA970921271FF-SKAISER]
Sent: 2/16/2016 6:58:05 PM
To: Freedhoff, Michal (Markey) [Michal_Freedhoff@markey.senate.gov]
Subject: Re: Request - "unreasonable risk"

Michal - 4 pm on Thurs, Feb 18 works for us. Call Ex. 6 - Personal Privacy code Ex. 6 - Personal Privacy #. Thanks,
Sven

On Feb 16, 2016, at 12:47 PM, "Freedhoff, Michal (Markey)" <Michal_Freedhoff@markey.senate.gov> wrote:

Call Thursday afternoon sometime btw 2-5?

Michal Ilana Freedhoff, Ph.D.
Director of Oversight and Investigations
Office of Senator Edward J. Markey (D-MA)

From: Kaiser, Sven-Erik
Sent: Tuesday, February 16, 2016 12:37 PM
To: Freedhoff, Michal (Markey)
Subject: RE: Request - "unreasonable risk"

Michal – we're glad to provide TA in whatever way work best for you and your colleagues. What's your timeframe on getting folks together – I'll check on availabilities. Thanks,
Sven

Sven-Erik Kaiser
U.S. EPA
Office of Congressional and Intergovernmental Relations
1200 Pennsylvania Ave., NW (1305A)
Washington, DC 20460
202-566-2753

From: Freedhoff, Michal (Markey) [mailto:Michal_Freedhoff@markey.senate.gov]
Sent: Tuesday, February 16, 2016 12:28 PM
To: Kaiser, Sven-Erik <Kaiser.Sven-Erik@epa.gov>
Subject: Request - "unreasonable risk"

Sven

There's an interest on the part of some (bipartisan) Senate staff to walk through (conference call is fine, so is mtg, so is you sending us a TA document - whatever is best for you) the instances in TSCA where EPA's practice is NOT to consider costs as part of 'unreasonable risk' determinations. The motivation for the question is section 5 exemptions, and whether EPA currently considers costs as part of deciding whether to grant them. We thought it would be useful to go through these statute-wide rather than as they occurred to us.

Thanks
Michal

Michal Ilana Freedhoff, Ph.D.
Director of Oversight and Investigations
Office of Senator Edward J. Markey (D-MA)

Message

From: Kaiser, Sven-Erik [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AC78D3704BA94EDBBD0DA970921271FF-SKAISER]
Sent: 4/12/2016 10:26:05 PM
To: 'Black, Jonathan (Tom Udall)' [Jonathan_Black@tomudall.senate.gov]
Subject: Sen. Udall TSCA TA request on Industry nominated chemicals

Jonathan,
Got it – checking. Tomorrow ok? Thanks,
Sven

Sven-Erik Kaiser
U.S. EPA
Office of Congressional and Intergovernmental Relations
1200 Pennsylvania Ave., NW (1305A)
Washington, DC 20460
202-566-2753

From: Black, Jonathan (Tom Udall) [mailto:Jonathan_Black@tomudall.senate.gov]
Sent: Tuesday, April 12, 2016 6:19 PM
To: Kaiser, Sven-Erik <Kaiser.Sven-Erik@epa.gov>
Subject: FW: Sen. Udall TSCA TA request on Industry nominated chemicals

Would appreciate thoughts on these edits/suggestions from EDF

Attached see our additions to EPA's rewrite of section 6(b)(4)(E), which:

- Include consistently missed deadlines for risk evaluations and rules as an additional critical indicator of EPA being overrun by industry requests;
- Preclude EPA from allocating disproportionately more resources to industry-requested chemicals, a concept that is already in the current text; and
- Require EPA, when selecting among industry requests, to give preference to those presenting greater concern using the criteria specified in the prioritization section.

From: Black, Jonathan (Tom Udall) [mailto:Jonathan_Black@tomudall.senate.gov]
Sent: Tuesday, April 12, 2016 2:02 PM
To: Richard Denison; Joanna (joannaslaney@gmail.com)
Subject: FW: Sen. Udall TSCA TA request on Industry nominated chemicals

From: Kaiser, Sven-Erik [mailto:Kaiser.Sven-Erik@epa.gov]
Sent: Monday, April 11, 2016 5:20 PM
To: Black, Jonathan (Tom Udall) <Jonathan_Black@tomudall.senate.gov>
Subject: Sen. Udall TSCA TA request on Industry nominated chemicals

Jonathan,
This TA responds to the request on industry nominated chemicals language.

You requested a replacement for (b)(4)(E) that would eliminate the industry cap, but nonetheless provide comparable assurance that industry prioritizations would not overrun the resources necessary for EPA priorities.

We believe the following replacement for (E)(i) and (ii) would accomplish this objective. It operates by simply shutting down the pipeline for taking further industry requests if EPA falls behind on the expected pace of pursuing its own priorities. The edits are also attached as a redline to section 6 (attached).

(E) LIMITATION AND CRITERIA

“(i) If the Administrator’s designation of priority substances or conduct of risk evaluations is insufficient to satisfy the requirements of paragraph (2)(A), (2)(B), or (2)(C), then the Administrator shall accept no further requests under subparagraph (C)(ii) until the requirements of paragraph (2)(A), (2)(B), and (2)(C) are all satisfied.

(ii) Requests for risk evaluations under subparagraph (C)(ii) shall be subject to public notice and comment and to the payment of fees pursuant to section 26(b)(3)(D), and the Administrator shall not expedite or otherwise provide special treatment to such risk evaluations,

This TA only responds to changes since the last version at the time we were reviewing. All previously offered TA is still germane to the extent the provision has not changed since the TA was offered. The technical assistance does not necessarily represent the policy positions of the agency and the administration on the bill, the draft language and the comments.

Please let me know if any additional questions. Thanks,
Sven

Sven-Erik Kaiser
U.S. EPA
Office of Congressional and Intergovernmental Relations
1200 Pennsylvania Ave., NW (1305A)
Washington, DC 20460
202-566-2753

From: Black, Jonathan (Tom Udall) [mailto:Jonathan_Black@tomudall.senate.gov]
Sent: Monday, April 11, 2016 1:44 PM
To: Kaiser, Sven-Erik <Kaiser.Sven-Erik@epa.gov>
Subject: Re: Sen. Udall TSCA TA request on Industry nominated chemicals

Thanks Sven, I should have asked for you to draft to the Senate offer.

Possible to see that? Sorry.

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

From: Kaiser, Sven-Erik
Sent: Monday, April 11, 2016 1:33 PM
To: Black, Jonathan (Tom Udall)
Subject: Sen. Udall TSCA TA request on Industry nominated chemicals

Jonathan,
This TA responds to the request on industry nominated chemicals.

QUESTION: EPA has indicated that the House bill allows industry nominated chemicals to overwhelm EPA's priorities.

Is there a way to draft the house bill/proposal to allow for industry nominated chemicals to move through "without a cap" (as per the senate bill), but also without compromising EPA's priorities?

Response:

The language in question is for the House offer. It would also work with minor adjustment for the House bill as passed. There is no min/max provision in the House bill as passed, so that part has to be deleted if you are modifying the House bill as passed.

House offer

6(b)(7) MINIMUM NUMBER.--

(A) IN GENERAL.-- Subject to the availability of appropriations, the Administrator shall initiate 10 or more risk evaluations under paragraph (3)(A)(i) or (3)(B) in each fiscal year beginning in the fiscal year of the date of enactment of the Frank R. Lautenberg Chemical Safety for the 21st Century Act.

(B) LIMITATION.-- Notwithstanding any other provision of this section, if the Administrator does not initiate 10 or more risk evaluations under (A) in any complete fiscal year following the date of enactment of the Frank R. Lautenberg Chemical Safety for the 21st Century Act, then in the following fiscal year the Administrator shall not accept any requests under paragraph (3)(A)(ii) and is not subject to paragraph (3)(C)(i)(I), unless in that fiscal year the Administrator has first initiated 10 risk evaluations under (A).

House bill as passed

6(b)(7) MINIMUM NUMBER.--

(A) IN GENERAL.-- Subject to the availability of appropriations, the Administrator shall initiate 10 or more risk evaluations under paragraph (3)(A)(i) or (3)(B) in each fiscal year beginning in the fiscal year of the date of enactment of the Frank R. Lautenberg Chemical Safety for the 21st Century Act.

(B) LIMITATION.-- Notwithstanding any other provision of this section, if the Administrator does not initiate 10 or more risk evaluations under (A) in any complete fiscal year following the date of enactment of the Frank R. Lautenberg Chemical Safety for the 21st Century Act, then in the following fiscal year the Administrator shall not accept any requests under paragraph (3)(A)(ii) unless in that fiscal year the Administrator has first initiated 10 risk evaluations under (A).

This TA only responds to changes since the last version at the time we were reviewing. All previously offered TA is still germane to the extent the provision has not changed since the TA was offered. The technical assistance does not necessarily represent the policy positions of the agency and the administration on the bill, the draft language and the comments.

Please let me know if any additional questions. Thanks,
Sven

Sven-Erik Kaiser
U.S. EPA
Office of Congressional and Intergovernmental Relations
1200 Pennsylvania Ave., NW (1305A)
Washington, DC 20460
202-566-2753

From: "Black, Jonathan (Tom Udall)"
<Jonathan.Black@tomudall.senate.gov>
Date: April 10, 2016 at 6:07:41 PM EDT
To: "Kaiser, Sven-Erik" <Kaiser.Sven-Erik@epa.gov>
Subject: **Industry nominated chemicals**

Hi Sven,

EPA has indicated that the House bill allows industry nominated chemicals to overwhelm EPA's priorities.

Is there a way to draft the house bill/proposal to allow for industry nominated chemicals to move through "without a cap" (as per the senate bill), but also without compromising EPA's priorities?

Message

From: Kaiser, Sven-Erik [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AC78D3704BA94EDBBD0DA970921271FF-SKAISER]
Sent: 4/19/2016 2:36:21 PM
To: Michal_Freedhoff@markey.senate.gov
Subject: Fwd: Sen. Markey TSCA TA inquiry on timeline on 4, 14, 26?

Michal,

We should have 14 in one hour, with 4 and 26 by 1 pm. Please let me know if any questions. Thanks,
Sven

From: Kaiser, Sven-Erik
Sent: Tuesday, April 19, 2016 10:27 AM
To: Cleland-Hamnett, Wendy <Cleland-Hamnett.Wendy@epa.gov>; Schmit, Ryan <schmit.ryan@epa.gov>; Flattery, Priscilla <Flattery.Priscilla@epa.gov>; Distefano, Nichole <DiStefano.Nichole@epa.gov>; Mclean, Kevin <Mclean.Kevin@epa.gov>; Jones, Jim <Jones.Jim@epa.gov>; Berol, David <Berol.David@epa.gov>; Grant, Brian <Grant.Brian@epa.gov>; Brown, Tristan <Brown.Tristan@epa.gov>
Subject: Sen. Markey TSCA TA inquiry on timeline on 4, 14, 26?

TSCA Team,

Please see note from Michal. I replied that all are in the works and asked for her deadline. Thanks,

Sven

Begin forwarded message:

From: "Freedhoff, Michal (Markey)" <Michal_Freedhoff@markey.senate.gov>
Date: April 19, 2016 at 10:15:25 AM EDT
To: "Sven-Erik Kaiser (Kaiser.Sven-Erik@epamail.epa.gov)" <Kaiser.Sven-Erik@epamail.epa.gov>
Subject: what is your timeline on 4, 14, 26?

Michal Ilana Freedhoff, Ph.D.

Director of Oversight & Investigations

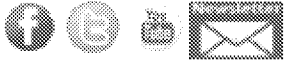
Office of Senator Edward J. Markey

255 Dirksen Senate Office Building

Washington, DC 20510

202-224-2742

Connect with Senator Markey



Message

From: Kaiser, Sven-Erik [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AC78D3704BA94EDBBD0DA970921271FF-SKAISER]
Sent: 4/10/2016 7:22:13 PM
To: Freedhoff, Michal (Markey) [Michal_Freedhoff@markey.senate.gov]
Subject: Sen. Markey TSCA TA Re: implementation dates

Michal - got it - checking. Thanks,
Sven

On Apr 10, 2016, at 3:20 PM, Freedhoff, Michal (Markey) <Michal_Freedhoff@markey.senate.gov> wrote:

Could you look at this? trying to address request for a carve-out for bans/phaseouts that allows these to BEGIN within 4-5.5 years while ensuring that other non-ban/phaseout restrictions are FINISHED in 4/5.5 years. Does this work? And, is this timeframe reasonable for the START date of a ban/phaseout?

(d) EFFECTIVE DATE.—(1) In any rule under subsection (a), the Administrator shall specify :

(A) the date on which it shall take effect, which date shall be as soon as feasible

(B) dates by which full implementation of the requirements under a rule under subsection (a) is mandatory, which for requirements that are not a ban or phase-out, shall be as soon as practicable, but not later than 4 years after the date of promulgation of the rule, except in a case of a use exempted under subsection(g);

(C) dates by which compliance with the requirements under a rule under subsection (a) is mandatory, which, for requirements in a rule under subsection (a) that are a ban or phase-out, shall be as soon as practicable, but not later than 4 years after the date of promulgation of the rule, except in the case of a use exempted under subsection (g);

(D) shall provide for a reasonable transition period;

(E) as determined by the Administrator, may vary for different affected persons; and

(F) following a determination by the Administrator that compliance is technologically or economically infeasible within the timeframe specified in subparagraph (B) or (C), shall provide up to an additional 18 months for compliance to be mandatory.

Michal Ilana Freedhoff, Ph.D.
Director of Oversight & Investigations
Office of Senator Edward J. Markey
255 Dirksen Senate Office Building
Washington, DC 20510
202-224-2742

Connect with Senator Markey

<image001.png><image002.png><image003.png><image004.jpg>

Message

From: Kaiser, Sven-Erik [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AC78D3704BA94EDBBD0DA970921271FF-SKAISER]
Sent: 3/15/2016 9:05:47 PM
To: 'Karakitsos, Dimitri (EPW)' [Dimitri_Karakitsos@epw.senate.gov]
Subject: SEPW TSCA TA Request on Nomenclature

Dimitri – got it, checking. Thanks,
Sven

Sven-Erik Kaiser
U.S. EPA
Office of Congressional and Intergovernmental Relations
1200 Pennsylvania Ave., NW (1305A)
Washington, DC 20460
202-566-2753

From: Karakitsos, Dimitri (EPW) [mailto:Dimitri_Karakitsos@epw.senate.gov]
Sent: Tuesday, March 15, 2016 5:02 PM
To: Kaiser, Sven-Erik <Kaiser.Sven-Erik@epa.gov>
Subject: Nomenclature questions

Sven – have a few nomenclature follow up questions for you all.

In 8(b)(3)(B)(ii) we require the development of guidance recognizing multiple listings – would it be EPA developing that guidance? Wouldn't this guidance presumably allow EPA the discretion to determine when to recognize any duplicative listings as a single substance?

Does EPA recognize that there are multiple listed names for some chemicals on the inventory? Are chemicals like tallow fatty acid with a carbon chain of 16-18 represented more than once?

The oleochemical folks for example believe that there are possibly thousands of redundant inventory listings on the inventory, does EPA believe there are none?

Thanks

Dimitri J. Karakitsos
Majority Senior Counsel
Senate Committee on
Environment and Public Works
(202) 224-6176

Message

From: Kaiser, Sven-Erik [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AC78D3704BA94EDBBD0DA970921271FF-SKAISER]
Sent: 12/1/2016 2:56:35 PM
To: Black, Jonathan (Tom Udall) [Jonathan_Black@tomudall.senate.gov]
Subject: RE: Bipartisan Group of Senators Urge Smooth Transition for Chemical Safety Reform Implementation in New Administration

Thanks – (and for the support expressed in the letter)

Sven-Erik Kaiser
U.S. EPA
Office of Congressional and Intergovernmental Relations
1200 Pennsylvania Ave., NW (1305A)
Washington, DC 20460
202-566-2753

From: Black, Jonathan (Tom Udall) [mailto:Jonathan_Black@tomudall.senate.gov]
Sent: Thursday, December 01, 2016 9:41 AM
To: Kaiser, Sven-Erik <Kaiser.Sven-Erik@epa.gov>
Subject: FW: Bipartisan Group of Senators Urge Smooth Transition for Chemical Safety Reform Implementation in New Administration

From: Tom Udall Press Office
Sent: Wednesday, November 30, 2016 5:34 PM
To: Tom Udall Press Office <NEWS_PressOffice@tomudall.senate.gov>
Subject: Bipartisan Group of Senators Urge Smooth Transition for Chemical Safety Reform Implementation in New Administration



FOR IMMEDIATE RELEASE
November 30, 2016

Contact:
Jennifer Talhelm (Udall), 202.228.6870, news_pressoffice@tomudall.senate.gov

Bipartisan Group of Senators Urge Smooth Transition for Chemical Safety Reform Implementation in New Administration
In Letter to Trump Transition Team, Senators Call on New Administration to 'Maintain Momentum' on TSCA Reform

WASHINGTON – Today, U.S. Senators Tom Udall (D-N.M.) and James Inhofe (R-Okla.), along with Senators Cory Booker (D-N.J.), Shelley Moore Capito (R-W.V.), Tom Carper (D-Del.), Mike Crapo (R-Idaho), Edward J.

Markey (D-Mass.), Jeff Merkley (D-Ore.), and Sheldon Whitehouse (D-R.I.) sent a bipartisan letter to Vice President-elect Mike Pence in his role as chair of the Presidential Transition Team Executive Committee, urging the new administration to ensure there is continuity in the implementation of the landmark, bipartisan Frank R. Lautenberg Chemical Safety for the 21st Century Act. The historic chemical safety law, which was signed into law in June with broad bipartisan support, reforms the badly broken Toxic Substances Control Act (TSCA) of 1976 and is focused on protecting children, families and communities from potentially dangerous chemicals.

As the senators wrote, "TSCA was severely crippled in the 1990s and failed to provide basic health and safety protection for the American public. Uncertainty in the regulatory program also harmed innovation and consumer confidence in everyday products. The reformed law requires the Environmental Protection Agency (EPA) to make many critical decisions in the first months and years of the program, and the Agency has a crucial role to play in ensuring that the promise of the new law is realized. The updated law also directs the Centers for Disease Control to investigate and respond to potential cancer clusters and improve communication and data sharing between local, state and federal governments. Given that this implementation will overlap with the change of Administrations, we want to ensure there is continuity and continued momentum during this critical phase."

In the letter, the senators stressed the importance of communication between the presidential transition team and the EPA to ensure successful implementation of the critical reform law, which will safeguard public health and the environment and bolster confidence in the marketplace for manufactures and consumers alike. They noted that the EPA yesterday announced ahead of schedule the first 10 chemicals for risk evaluation, as required by the new law.

"We want to work with you next year to see this bipartisan law succeed," **the senators concluded.** "In order for that to happen, we urge that you begin working with the Agency to communicate on critical steps that are underway and to get a full appreciation of the new law's deadlines. We urge that you view appointments, funding and staffing to this office with utmost importance. It is essential to maintain momentum during the Presidential transition and in the early months of the new Administration to ensure that this new law is successful."

The full text of the letter is available below and [here](#).

Dear Mr. Vice President-Elect:

As you continue the transition process, we want to highlight for you the implementation of the Frank R. Lautenberg Chemical Safety for the 21st Century Act. This bill to reform the Toxic Substances Control Act (TSCA) of 1976 was signed by the President on June 22, 2016. The badly needed reforms were widely supported in Congress by a 403-12 vote in the House of Representatives and by voice vote in the Senate with near unanimous support. The effort took several years to complete, resulting in the most recent reform of a landmark environmental law since the 1990 Clean Air Act amendments.

TSCA was severely crippled in the 1990s and failed to provide basic health and safety protection for the American public. Uncertainty in the regulatory program also harmed innovation and consumer confidence in everyday products. The reformed law requires the Environmental Protection Agency (EPA) to make many critical decisions in the first months and years of the program, and the Agency has a crucial role to play in ensuring that the promise of the new law is realized. The updated law also directs the Centers for Disease Control to investigate and respond to potential cancer clusters and improve communication and data sharing between local, state and federal governments. Given that this implementation will overlap with the change of Administrations, we want to ensure there is continuity and continued momentum during this critical phase.

Having worked to strengthen and pass the Lautenberg Act in order to help protect children and communities from dangerous chemicals, we are now looking to EPA to vigorously implement the new law. This includes moving expeditiously to identify and address chemicals with the greatest potential impact on public health, especially those affecting vulnerable populations expressly required to be protected in the Act, including pregnant women, children, workers, and other at-risk communities. The EPA announced the first ten chemicals for risk evaluation ahead of schedule. Successful implementation of this law will also help ensure there is certainty and restore confidence in the marketplace for manufacturers, consumer product producers, and the public.

We want to work with you next year to see this bipartisan law succeed. In order for that to happen, we urge that you begin working with the Agency to communicate on critical steps that are underway and to get a full appreciation of the new law's deadlines. We urge that you view appointments, funding and staffing to this office with utmost importance. It is essential to

maintain momentum during the Presidential transition and in the early months of the new Administration to ensure that this new law is successful.

###

Message

From: Kaiser, Sven-Erik [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AC78D3704BA94EDBBD0DA970921271FF-SKAISER]
Sent: 4/5/2016 2:12:57 AM
To: Karakitsos, Dimitri (EPW) [Dimitri_Karakitsos@epw.senate.gov]
Subject: Re: SEPW TSCA TA call on CBI

Dimitri- we're fine with the language. It works and looks consistent with our TA. Please let me know if any questions.
Thanks,
Sven

On Apr 4, 2016, at 5:01 PM, Karakitsos, Dimitri (EPW) <Dimitri_Karakitsos@epw.senate.gov> wrote:

Sven -- just wanted to send this to you to confirm from the call that this works and would be consistent with previous TA as well as TA from the call. Thanks

(1) <!--[if !supportLists]--><!--[endif]-->OTHER INFORMATION NOT PROTECTED FROM DISCLOSURE Subsection (a) does not prohibit the disclosure of

- (A) <!--[if !supportLists]--><!--[endif]-->A risk evaluation conducted under section 6.
- (B) <!--[if !supportLists]--><!--[endif]-->Any general information describing the manufacturing volumes, expressed as specific aggregated volumes or, if the Administrator determines that disclosure of specific aggregated volumes would reveal confidential information, expressed in ranges.
- (C) <!--[if !supportLists]--><!--[endif]-->A general description of a process used in the manufacture or processing and industrial, commercial, or consumer functions and uses of a chemical substance, mixture, or article containing a chemical substance or mixture, including information specific to an industry or industry sector that customarily would be shared with the general public or within an industry or industry sector.

(2) <!--[if !supportLists]--><!--[endif]-->MIXED CONFIDENTIAL AND NONCONFIDENTIAL INFORMATION.—Any information that is eligible for protection under this section, that is not information described in subsections (c)(1) or (c)(2) or information required to be disclosed through subsection (c)(4) and is submitted with or contained in information described in this subsection shall be protected from disclosure, if the submitter complies with subsection (d), subject to the condition that information in the submission that is not eligible for protection against disclosure shall be disclosed.

From: Kaiser, Sven-Erik [mailto:Kaiser.Sven-Erik@epa.gov]
Sent: Monday, April 04, 2016 3:39 PM
To: Karakitsos, Dimitri (EPW)
Subject: SEPW TSCA TA call on CBI

Dimitri -- 4 is the earliest we can do it -- please call Ex. 6 - Personal Privacy code Ex. 6 - Personal Privacy Thanks,
Sven

Sven-Erik Kaiser
U.S. EPA
Office of Congressional and Intergovernmental Relations
1200 Pennsylvania Ave., NW (1305A)
Washington, DC 20460
202-566-2753

From: Karakitsos, Dimitri (EPW) [mailto:Dimitri_Karakitsos@epw.senate.gov]
Sent: Monday, April 04, 2016 3:31 PM
To: Kaiser, Sven-Erik <Kaiser.Sven-Erik@epa.gov>
Subject: RE: can we do a quick

Yup that should be fine, if you all want to call and can any earlier I will be here.

From: Kaiser, Sven-Erik [mailto:Kaiser.Sven-Erik@epa.gov]
Sent: Monday, April 04, 2016 3:31 PM
To: Karakitsos, Dimitri (EPW)
Subject: RE: can we do a quick

Dimitri - Checking – I think we can do 4pm – ok?

Sven-Erik Kaiser
U.S. EPA
Office of Congressional and Intergovernmental Relations
1200 Pennsylvania Ave., NW (1305A)
Washington, DC 20460
202-566-2753

From: Karakitsos, Dimitri (EPW) [mailto:Dimitri_Karakitsos@epw.senate.gov]
Sent: Monday, April 04, 2016 3:29 PM
To: Kaiser, Sven-Erik <Kaiser.Sven-Erik@epa.gov>
Subject: can we do a quick

5 min call on this cbi paragraph when you get a chance please? I am available now if your folks are and can be reached at my desk – 224-9705

(1) MIXED CONFIDENTIAL AND NONCONFIDENTIAL INFORMATION.—Any information that is eligible for protection under this section, that is not information described in subsections (c)(1) or (c)(2) or information described in subsection (c)(4) for which the protection from disclosure is presumed to no longer apply, and is submitted with or contained in information described in this subsection shall be protected from disclosure, if the submitter complies with subsection (d), subject to the condition that information in the submission that is not eligible for protection against disclosure shall be disclosed.

Message

From: Kaiser, Sven-Erik [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AC78D3704BA94EDBBD0DA970921271FF-SKAISER]
Sent: 3/31/2016 5:03:28 PM
To: Freedhoff, Michal (Markey) [Michal_Freedhoff@markey.senate.gov]
Subject: TSCA Conf call on cost considerations

Great- for the call at 2:30 today, please call Ex. 6 - Personal Privacy code Ex. 6 - Personal Privacy. Thanks,
Sven

On Mar 31, 2016, at 1:00 PM, Freedhoff, Michal (Markey) <Michal_Freedhoff@markey.senate.gov> wrote:

Yes. Thanks.

Michal Ilana Freedhoff, Ph.D.
Director of Oversight and Investigations
Office of Senator Edward J. Markey (D-MA)

From: Kaiser, Sven-Erik
Sent: Thursday, March 31, 2016 12:56 PM
To: Freedhoff, Michal (Markey)
Subject: Re: Costs

Michal, does 2:30pm work for you and colleagues? Thanks,
Sven

On Mar 31, 2016, at 11:50 AM, Freedhoff, Michal (Markey) <Michal_Freedhoff@markey.senate.gov> wrote:

Senate side (bipartisan) wants to do a call with you guys on how cost considerations in Senate v House approaches works. Any times work for you this afternoon?

Thx
M

Michal Ilana Freedhoff, Ph.D.
Director of Oversight and Investigations
Office of Senator Edward J. Markey (D-MA)

Message

From: Kaiser, Sven-Erik [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AC78D3704BA94EDBBD0DA970921271FF-SKAISER]
Sent: 4/27/2016 7:57:18 PM
To: 'Freedhoff, Michal (Markey)' [Michal_Freedhoff@markey.senate.gov]
Subject: Sen. Markey TSCA TA on section 5

Michal,
Availability for a call on the likely/may issue? Thanks,
Sven

Sven-Erik Kaiser
U.S. EPA
Office of Congressional and Intergovernmental Relations
1200 Pennsylvania Ave., NW (1305A)
Washington, DC 20460
202-566-2753

Message

From: Kaiser, Sven-Erik [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AC78D3704BA94EDBBD0DA970921271FF-SKAISER]
Sent: 4/10/2016 6:47:28 PM
To: Freedhoff, Michal (Markey) [Michal_Freedhoff@markey.senate.gov]
Subject: Re: Sen. Markey TSCA TA request on PBTs 04-09-16PBT (Conf Proposal)

Michal,
Thanks for the draft- checking on the question. Best,
Sven

On Apr 10, 2016, at 2:46 PM, Freedhoff, Michal (Markey) <Michal_Freedhoff@markey.senate.gov> wrote:

Thanks. new draft attached. pls take a look to see if earlier qs answered.

IN your view, what is the difference between "likely exposure" and "exposure" – both were used in this draft and I have made them all "likely" for now.

Thanks
m

Michal Ilana Freedhoff, Ph.D.
Director of Oversight & Investigations
Office of Senator Edward J. Markey
255 Dirksen Senate Office Building
Washington, DC 20510
202-224-2742

Connect with Senator Markey

<image001.png><image002.png><image003.png><image004.jpg>

From: Kaiser, Sven-Erik [mailto:Kaiser.Sven-Erik@epa.gov]
Sent: Sunday, April 10, 2016 1:39 PM
To: Freedhoff, Michal (Markey)
Subject: Sen. Markey TSCA TA request on PBTs 04-09-16PBT (Conf Proposal)

Michal- see attached TA requested on PBTs.

This TA only responds to changes since the last version at the time we were reviewing. All previously offered TA is still germane to the extent the provision has not changed since the TA was offered. The technical assistance does not necessarily represent the policy positions of the agency and the administration on the bill, the draft language and the comments.

Please let me know if any questions. Thanks,
Sven

From:

"Freed
hoff,
Michal
(Marke
y)"

<Mich
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@mark
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Date:

April 9,
2016
at
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01 PM
EDT

To:

"Sven-
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Kaiser
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Sven

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Thanks

Michal

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<04-09-16PBT (Conf Proposal) -- wch.docx>

<04-09-16PBT (Conf Proposal) -- BG.docx>

<04-10-16PBT (Conf Proposal).docx>

Message

From: Kaiser, Sven-Erik [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AC78D3704BA94EDBBD0DA970921271FF-SKAISER]
Sent: 3/22/2016 5:29:07 PM
To: Black, Jonathan (Tom Udall) [Jonathan_Black@tomudall.senate.gov]
Subject: Sen. Udall TSCA TA Request on Cost Consideration Options
Attachments: Udall.TSCA TA.Cost Consideration Options.docx

Jonathan,
This TA responds to your phone request for cost consideration options based on the House bill. Please let me know if any questions. Thanks,
Sven

Sven-Erik Kaiser
U.S. EPA
Office of Congressional and Intergovernmental Relations
1200 Pennsylvania Ave., NW (1305A)
Washington, DC 20460
202-566-2753

This language is provided by EPA as technical assistance in response to a congressional request. The technical assistance is intended for use only by the requester. The technical assistance does not necessarily represent the policy positions of the agency and the administration on the bill, the draft language and the comments.

Two versions of revision to House bill language, hewing closest to that language

Version 1: (B) impose requirements under the rule that the Administrator determines, to the extent practicable based on the information published under subparagraph (A), are cost-effective, except where the Administrator determines that requirements described in subsection (a) that are in addition to or different from the cost-effective requirements the Administrator was able to identify during the rulemaking process are necessary to ensure that the chemical substance no longer presents or will present an unreasonable risk of injury to health or the environment under the intended conditions of use, including an identified unreasonable risk to a potentially exposed population.

Commented [A1]: Note that we have not attempted to integrate the revisions into the Senate construct – e.g., we have not referenced back to subsection 4(b)(4)(A) to define “unreasonable risk”. Conforming changes can be made if there is a desire to proceed with one of these approaches.

Version 2: (B) impose requirements under the rule that the Administrator determines, to the extent practicable based on the information published under subparagraph (A), are more cost-effective than the other requirements considered by the Administrator, except where the Administrator determines that one or more of the other requirements requirements described in subsection (a) that are in addition to or different from the cost-effective requirements the Administrator was able to identify during the rulemaking process are necessary to ensure that the chemical substance no longer presents or will present an unreasonable risk of injury to health or the environment under the intended conditions of use, including an identified unreasonable risk to a potentially exposed population.

Commented [A2]: Compared to the House bill version, this version clarifies that: 1. The scope of EPA’s analysis is limited to the information described under subsection (A) (which includes “reasonably ascertainable economic consequences”); 2. (B) does not drive an open-ended requirement to identify all potentially cost-effective protective requirements; and 3. the requirements selected must eliminate the identified unreasonable risk. It does not “flip the presumption” in favor of cost-effective remedies, though; it weakens the presumption.

Version 3 – more substantial revision to House bill language, to establish a preference rather than a presumption

(B) generally give preference to requirements that the Administrator determines, to the extent practicable based on the information published under subparagraph (A), are more cost-effective.

Commented [A3]: This version has the features described in Version 1, plus the added feature of presenting cost-effectiveness as a relative concept. This necessitated a fair amount of rewording, because it clarifies up front that only the range of options considered by EPA is at play.

Commented [A4]: This is a softer version of 6(c)(1)(B). It establishes a general preference for more cost-effective requirements. EPA believes its decision to impose less cost-effective requirements could be subject to legal challenge, and that EPA would need to explain why it overcame the preference. But we believe the Agency’s bar for doing so would be lower than the bar under the version above.

Message

From: Kaiser, Sven-Erik [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AC78D3704BA94EDBBD0DA970921271FF-SKAISER]
Sent: 2/16/2016 5:37:01 PM
To: 'Freedhoff, Michal (Markey)' [Michal_Freedhoff@markey.senate.gov]
Subject: RE: Request - "unreasonable risk"

Michal – we're glad to provide TA in whatever way work best for you and your colleagues. What's your timeframe on getting folks together – I'll check on availabilities. Thanks,
Sven

Sven-Erik Kaiser
U.S. EPA
Office of Congressional and Intergovernmental Relations
1200 Pennsylvania Ave., NW (1305A)
Washington, DC 20460
202-566-2753

From: Freedhoff, Michal (Markey) [mailto:Michal_Freedhoff@markey.senate.gov]
Sent: Tuesday, February 16, 2016 12:28 PM
To: Kaiser, Sven-Erik <Kaiser.Sven-Erik@epa.gov>
Subject: Request - "unreasonable risk"

Sven

There's an interest on the part of some (bipartisan) Senate staff to walk through (conference call is fine, so is mtg, so is you sending us a TA document - whatever is best for you) the instances in TSCA where EPA's practice is NOT to consider costs as part of 'unreasonable risk' determinations. The motivation for the question is section 5 exemptions, and whether EPA currently considers costs as part of deciding whether to grant them. We thought it would be useful to go through these statute-wide rather than as they occurred to us.

Thanks
Michal

Michal Ilana Freedhoff, Ph.D.
Director of Oversight and Investigations
Office of Senator Edward J. Markey (D-MA)

Message

From: Kaiser, Sven-Erik [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AC78D3704BA94EDBBD0DA970921271FF-SKAISER]
Sent: 3/31/2016 3:52:19 PM
To: 'Freedhoff, Michal (Markey)' [Michal_Freedhoff@markey.senate.gov]
Subject: Senate TSCA call request on cost considerations

Michal – got it – checking. Thanks,
Sven

Sven-Erik Kaiser
U.S. EPA
Office of Congressional and Intergovernmental Relations
1200 Pennsylvania Ave., NW (1305A)
Washington, DC 20460
202-566-2753

From: Freedhoff, Michal (Markey) [mailto:Michal_Freedhoff@markey.senate.gov]
Sent: Thursday, March 31, 2016 11:51 AM
To: Kaiser, Sven-Erik <Kaiser.Sven-Erik@epa.gov>
Subject: Costs

Senate side (bipartisan) wants to do a call with you guys on how cost considerations in Senate v House approaches works. Any times work for you this afternoon?

Thx
M

Michal Ilana Freedhoff, Ph.D.
Director of Oversight and Investigations
Office of Senator Edward J. Markey (D-MA)

Message

From: Kaiser, Sven-Erik [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AC78D3704BA94EDBBD0DA970921271FF-SKAISER]
Sent: 4/7/2016 11:02:46 PM
To: Freedhoff, Michal (Markey) [Michal_Freedhoff@markey.senate.gov]
CC: Karakitsos, Dimitri (EPW) [Dimitri_Karakitsos@epw.senate.gov]; Deveny, Adrian (Merkley) [Adrian_Deveny@merkley.senate.gov]; Black, Jonathan (Tom Udall) [Jonathan_Black@tomudall.senate.gov]
Subject: Re: SEPW TSCA TA on section 5

Section 4 in progress and should follow tonight. Thanks,
Sven

On Apr 7, 2016, at 6:58 PM, Freedhoff, Michal (Markey) <Michal_Freedhoff@markey.senate.gov> wrote:

Thank you very much

Michal Ilana Freedhoff, Ph.D.
Director of Oversight & Investigations
Office of Senator Edward J. Markey
255 Dirksen Senate Office Building
Washington, DC 20510
202-224-2742

Connect with Senator Markey

<image001.png><image002.png><image003.png><image004.jpg>

From: Kaiser, Sven-Erik [<mailto:Kaiser.Sven-Erik@epa.gov>]
Sent: Thursday, April 07, 2016 6:54 PM
To: Freedhoff, Michal (Markey); Karakitsos, Dimitri (EPW); Deveny, Adrian (Merkley); Black, Jonathan (Tom Udall)
Subject: SEPW TSCA TA on section 5

Attached please find the requested TA on the revised section 5.

This TA only responds to changes since the last version at the time we were reviewing. All previously offered TA is still germane to the extent the provision has not changed since the TA was offered. The technical assistance does not necessarily represent the policy positions of the agency and the administration on the bill, the draft language and the comments.

Please let me know if any questions. Thanks,
Sven

Message

From: Kaiser, Sven-Erik [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AC78D3704BA94EDBBD0DA970921271FF-SKAISER]
Sent: 4/21/2016 2:16:27 AM
To: Freedhoff, Michal (Markey) [Michal_Freedhoff@markey.senate.gov]
Subject: Re: Sen Markey TSCA TA Re: confidential draft

Michal - that would be great. Let's plan on 9:15 am, let me know if schedule changes.

Ex. 6 - Personal Privacy

code

Ex. 6 - Personal Privacy

Ex. 6 - Personal Privacy Thanks,
Sven

On Apr 20, 2016, at 10:12 PM, Freedhoff, Michal (Markey) <Michal_Freedhoff@markey.senate.gov> wrote:

Thanks. Maybe around 9:15?

Michal Ilana Freedhoff, Ph.D.
Director of Oversight and Investigations
Office of Senator Edward J. Markey (D-MA)

From: Kaiser, Sven-Erik
Sent: Wednesday, April 20, 2016 10:01 PM
To: Freedhoff, Michal (Markey)
Subject: Sen Markey TSCA TA Re: confidential draft

Michal,

We went through the narrative points below and would be happy to walk you through our TA. Please let me know best time Thurs morning. In addition we plan to provide TA on the nomenclature, animal testing and section 6 language as soon as possible. Please let me know if any questions. Thanks,
Sven

On Apr 20, 2016, at 6:33 PM, Freedhoff, Michal (Markey) <Michal_Freedhoff@markey.senate.gov> wrote:

Pls review. Section 6 coming soon.

Michal Ilana Freedhoff, Ph.D.
Director of Oversight and Investigations
Office of Senator Edward J. Markey (D-MA)

From: McCarthy, David <David.McCarthy@mail.house.gov>
Sent: Wednesday, April 20, 2016 6:29 PM
To: Jackson, Ryan (Inhofe); Karakitsos, Dimitri (EPW); Poirier, Bettina (EPW); Black, Jonathan (Tom Udall); Freedhoff, Michal (Markey)
Cc: Cohen, Jacqueline; Sarley, Chris; Couri, Jerry; Richards, Tina; Kessler, Rick
Subject: FW: confidential draft

On the House side we've been working hard to develop some fixes that can make a bi-par House vote possible:

On section 26 we will go with the draft as is, including Senate science language.

- On section 6 (April12 draft) - On page 2 – keep the factors to consider for selecting chemicals for prioritization but drop the requirement that EPA do a rulemaking for a year to articulate those standards.
- On page 4 keep the low priority designation but in the description of low priority substances, change “not likely to present” to “likely not to present”

- On page 4, delete the distinction for inactive substances
- On page 6-7, delete paragraph (C) –
- On page 8, line 13 delete (i) [info request] and (ii) [notice and comment]
- On page 10, line 17, delete (B) This is covered by our section 26
- On page 12 – delete notice and comment on requests for risk evaluation. Seems to suggest that EPA prioritizes manufacturer risk evaluations, instead of first-come first-served. -

In the new language from Dimitri and Michal, keep the new arrangement for (c)(2)(A) [including new Senate treatment of “cost-effective”, etc] but in (c)(2)(A)(iv)(II) delete “quantifiable and non-quantifiable”

On articles in 6 delete “or category of articles” in one place but not both. It’s not needed where bracketed below.

“(D) ARTICLES.—In selecting among prohibitions and other restrictions, the Administrator shall apply such prohibitions or other restrictions to an article or category of articles containing the chemical substance or mixture only to the extent necessary to address the identified risks from exposure to the chemical substance or mixture from the article [or category of articles], so that the substance or mixture does not present an unreasonable risk identified in the risk evaluation conducted in accordance with subsection (b)(4)(A).

We’re still working on 5, including considering a change to your SNU articles language.

On section 8:

Use either the short or long versions that you have sent us, but include the 2 savings clauses that were drafted earlier and which you guys have.

In section 14 some concerns about the distinction being drawn between non-emergency and emergency situations – if a release of the chemical substance has occurred or one or more people being treated have been exposed, it would seem like you have moved into the emergency category.

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- Permit section 4(a) testing when a chemical may present an unreasonable risk by order as well as by rule. Keep tiered testing, but tweak it:

“(4) TIERED TESTING.—When requiring the development of new information under this subsection, the Administrator shall *consider employing* a tiered screening and testing process, under which the results of screening-level tests or assessments of available information inform the decision as to whether 1 or more additional tests are necessary, unless information available to the Administrator justifies more advanced testing of potential health or environmental effects or potential exposure without first *considering* [conducting] screening-level testing.”;

<animal_02_xml.pdf>

<nomenclature with savings.pdf>

Message

From: Kaiser, Sven-Erik [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AC78D3704BA94EDBBD0DA970921271FF-SKAISER]
Sent: 3/11/2016 3:25:57 PM
To: 'Freedhoff, Michal (Markey)' [Michal_Freedhoff@markey.senate.gov]
Subject: RE: Sen. Markey TSCA TA request - House fees

Thanks – how did it go?

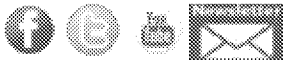
Sven-Erik Kaiser
U.S. EPA
Office of Congressional and Intergovernmental Relations
1200 Pennsylvania Ave., NW (1305A)
Washington, DC 20460
202-566-2753

From: Freedhoff, Michal (Markey) [mailto:Michal_Freedhoff@markey.senate.gov]
Sent: Friday, March 11, 2016 10:25 AM
To: Kaiser, Sven-Erik <Kaiser.Sven-Erik@epa.gov>
Subject: RE: Sen. Markey TSCA TA request - House fees

Yes, or so we were told yesterday.

Michal Ilana Freedhoff, Ph.D.
Director of Oversight & Investigations
Office of Senator Edward J. Markey
255 Dirksen Senate Office Building
Washington, DC 20510
202-224-2742

Connect with Senator Markey



From: Kaiser, Sven-Erik [mailto:Kaiser.Sven-Erik@epa.gov]
Sent: Friday, March 11, 2016 10:23 AM
To: Freedhoff, Michal (Markey)
Subject: RE: Sen. Markey TSCA TA request - House fees

Michal – we want to make sure we are focusing TA efforts most efficiently – are we right in thinking that it's fees and section 8 today, tomorrow and Sunday will be sections 5 and 6? Thanks,
Sven

Sven-Erik Kaiser
U.S. EPA
Office of Congressional and Intergovernmental Relations
1200 Pennsylvania Ave., NW (1305A)
Washington, DC 20460
202-566-2753

From: Freedhoff, Michal (Markey) [mailto:Michal_Freedhoff@markey.senate.gov]
Sent: Friday, March 11, 2016 5:05 AM

To: Kaiser, Sven-Erik <Kaiser.Sven-Erik@epa.gov>; Black, Jonathan (Tom Udall) <Jonathan.Black@tomudall.senate.gov>; Deveny, Adrian (Merkley) <Adrian_Deveny@merkley.senate.gov>
Subject: Re: Sen. Markey TSCA TA request - House fees

Quick follow up question for you Sven

Would changing "defray the cost of administering the provision for which such fee is collected" to

"Defray the cost of administering the provision and any other activities under the act related to the chemical substance or mixture for which such fee is collected" address one of the points you make below?

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I recognize that the solution above probably does not address the core resubstantiation obligations provided in the senate bill in section 8. But could it address the question of industry-requested RES and whether the fees for the RE could then be used for rulemaking?

Quick turnaround needed - mtg on this is at 1:30. Feel free to suggest alternatives if what I wrote makes no sense. :-)

Thx
M

Michal Ilana Freedhoff, Ph.D.
Director of Oversight and Investigations
Office of Senator Edward J. Markey (D-MA)

From: Kaiser, Sven-Erik
Sent: Thursday, March 10, 2016 5:45 PM
To: Freedhoff, Michal (Markey); Black, Jonathan (Tom Udall); Deveny, Adrian (Merkley)
Subject: Sen. Markey TSCA TA request - House fees

Michal,
This responds to your TA request on House fees language and section 4.

Under either the House bill or the House offer, section 26(b)(1) provides that fees collected can be used only to "defray the cost of administering the provision of [TSCA] for which such fee is collected." In general, it will be difficult to interpret and implement restrictions on the use of fees that are expressed in terms of the particular provision of TSCA that EPA can administer using the fees, since these do not necessarily align with recognized program areas or budget categories. A more descriptive statement of the program functions for which fees can be spent would be a help to EPA in adhering to these spending restrictions.

Constraining the use of fees in this manner will likely lead to other sorts of implementation problems. For example, it appears that fees collected for data submitted under section 4 could only be used to cover the cost of collecting the information, not of using the information to perform risk evaluations. This is because the fee collection authority would be categorized under section 4, yet the use of the information in a risk evaluation would be under section 6(b). Furthermore, because CBI review obligations are undertaken under section 14, EPA could not use these fees to defray the cost of reviewing and otherwise processing CBI claims. Finally, a manufacturer's decision to request a risk evaluation may eventually result in EPA being subject to a legal obligation to undertake risk management rulemaking, but EPA could not use industry fees to defray the cost of that rulemaking.

The House offer partially addresses these implementation concerns regarding funding by adding fee collection authority for EPA initiated risk evaluations (the House bill only provides for fees to defray risk evaluation when industry requests the risk evaluation). However, the House offer still does not provide fee collection authority or other resources to defray the significant costs associated with risk management or the costs to review CBI claims. This is especially problematic in combination with the House offer's introduction of a new and very resource intensive program for the review of older CBI claims.

Please let me know if any additional questions. Thanks,
Sven

Sven-Erik Kaiser
U.S. EPA
Office of Congressional and Intergovernmental Relations
1200 Pennsylvania Ave., NW (1305A)
Washington, DC 20460
202-566-2753

From: Freedhoff, Michal (Markey) [mailto:Michal_Freedhoff@markey.senate.gov]
Sent: Thursday, March 10, 2016 3:33 PM
To: Kaiser, Sven-Erik <Kaiser.Sven-Erik@epa.gov>
Cc: Black, Jonathan (Tom Udall) <Jonathan_Black@tomudall.senate.gov>; Deveny, Adrian (Merkley) <Adrian_Deveny@merkley.senate.gov>
Subject: TA request - House fees

Sven

House fees language basically says that a fee collected under section 4 can only be used for section 4 activities, and so forth. Does EPA have any workability or other concern associated with this provision?

Thanks
Michal

Michal Ilana Freedhoff, Ph.D.
Director of Oversight and Investigations
Office of Senator Edward J. Markey (D-MA)

Message

From: Kaiser, Sven-Erik [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AC78D3704BA94EDBBD0DA970921271FF-SKAISER]
Sent: 2/14/2016 5:50:15 PM
To: Freedhoff, Michal (Markey) [Michal_Freedhoff@markey.senate.gov]
Subject: Re: TA request -section 6(e)

Michal,
Got it. Thanks,
Sven

On Feb 14, 2016, at 11:34 AM, "Freedhoff, Michal (Markey)" <Michal_Freedhoff@markey.senate.gov> wrote:

Sven

When the Senate 'fixed' unreasonable risk throughout TSCA, it did not address instances in section 6(e) on stated grounds that these regulations had been completed and that there had not been litigation surrounding them. I was ok with that at the time, but have since been made aware that EPA is considering changing its PCB regulations.

Does EPA have a concern that 'unreasonable risk' determinations in section 6(e) also need to be somehow addressed by removing costs?

Thanks
Michal

Michal Ilana Freedhoff, Ph.D.
Director of Oversight and Investigations
Office of Senator Edward J. Markey (D-MA)

Message

From: Kaiser, Sven-Erik [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AC78D3704BA94EDBBD0DA970921271FF-SKAISER]
Sent: 2/2/2016 10:28:32 PM
To: 'Freedhoff, Michal (Markey)' [Michal_Freedhoff@markey.senate.gov]
Subject: RE: Sen. Markey TSCA TA on definition of processor

Michal – thanks for the followup question. I'm checking with folks – possibly a call might be helpful. Best, Sven

Sven-Erik Kaiser
U.S. EPA
Office of Congressional and Intergovernmental Relations
1200 Pennsylvania Ave., NW (1305A)
Washington, DC 20460
202-566-2753

From: Freedhoff, Michal (Markey) [mailto:Michal_Freedhoff@markey.senate.gov]
Sent: Tuesday, February 02, 2016 5:23 PM
To: Kaiser, Sven-Erik <Kaiser.Sven-Erik@epa.gov>
Subject: RE: Sen. Markey TSCA TA on definition of processor

Question for you Sven –

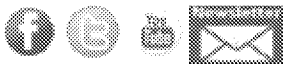
I understand why repackaging a chemical would make you a processor from a safety perspective – if there was an occupational risk or a labeling requirement for 10 gallons, presumably there would also be one for 1 gallon too.

I'm having a tougher time understanding the safety nexus to the assembly question, if the steering wheel already contained the chemical substance and the wheel was just being attached to the steering column, just as an example. It would be helpful to understand EPA's perspective on this question because I'm sure this will come up.

Thanks
Michal

Michal Ilana Freedhoff, Ph.D.
Director of Oversight & Investigations
Office of Senator Edward J. Markey
255 Dirksen Senate Office Building
Washington, DC 20510
202-224-2742

Connect with Senator Markey



From: Kaiser, Sven-Erik [mailto:Kaiser.Sven-Erik@epa.gov]
Sent: Tuesday, February 02, 2016 5:16 PM
To: Freedhoff, Michal (Markey)
Subject: Sen. Markey TSCA TA on definition of processor

Michal,
The attachment provides TA responding to your request. Please let me know if any questions. Thanks,

Sven

Sven-Erik Kaiser
U.S. EPA
Office of Congressional and Intergovernmental Relations
1200 Pennsylvania Ave., NW (1305A)
Washington, DC 20460
202-566-2753

From: Freedhoff, Michal (Markey) [mailto:Michal_Freedhoff@markey.senate.gov]
Sent: Thursday, January 28, 2016 3:09 PM
To: Kaiser, Sven-Erik <Kaiser.Sven-Erik@epa.gov>
Subject: TA request - definition of processor

Hi Sven

I have a couple questions about the definition of process/processor that have been raised by stakeholders.

- 1) First, there is a question about whether EPA could treat someone who took 10 gallon containers of a chemical substance and transferred the substance into smaller containers for sale as a processor? My read of the current statute is that YES, 10(A) would seem to allow this. Is that EPA's read as well and is there regulatory text that may further elaborate on the plain reading?
- 2) Second, what about companies who assemble things – ie install steering wheels in cars, or put furniture together? Could THEY be considered processors? My read is that 10(B) would NOT allow this, because if the chemical substance was already incorporated into the article, as it would be in the examples I used, (B) would make no sense in a reading that allowed these types of people to be treated as processors. Again, am I wrong on this, and is there any further regulatory or other elaboration on this point anywhere?

Thanks
michal

(10) The term “process” means the preparation of a chemical substance or mixture, after its manufacture, for distribution in commerce—

(A) in the same form or physical state as, or in a different form or physical state from, that in which it was received by the person so preparing such substance or mixture, or

(B) as part of an article containing the chemical substance or mixture.

(11) The term “processor” means any person who processes a chemical substance or mixture.

Michal Ilana Freedhoff, Ph.D.
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Connect with Senator Markey



Message

From: Kaiser, Sven-Erik [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AC78D3704BA94EDBBD0DA970921271FF-SKAISER]
Sent: 11/1/2016 8:48:07 PM
To: Bogdanoff, Alec (Markey) [Alec_Bogdanoff@markey.senate.gov]
CC: Freedhoff, Michal (Markey) [Michal_Freedhoff@markey.senate.gov]
Subject: RE: Request for a Call on Asbestos/PCB TA

Alec - Checking on 2pm tomorrow – will confirm date and time and provide a call in number. Thanks, Sven

Sven-Erik Kaiser
U.S. EPA
Office of Congressional and Intergovernmental Relations
1200 Pennsylvania Ave., NW (1305A)
Washington, DC 20460
202-566-2753

From: Bogdanoff, Alec (Markey) [mailto:Alec_Bogdanoff@markey.senate.gov]
Sent: Tuesday, November 01, 2016 3:58 PM
To: Kaiser, Sven-Erik <Kaiser.Sven-Erik@epa.gov>
Cc: Freedhoff, Michal (Markey) <Michal_Freedhoff@markey.senate.gov>
Subject: RE: Request for a Call on Asbestos/PCB TA

Hi Sven,

We are both available from 1:30-4pm tomorrow, and 9-10am & 2:30-5pm on Thursday.

Alec

From: Freedhoff, Michal (Markey)
Sent: Tuesday, November 1, 2016 3:25 PM
To: Kaiser, Sven-Erik <Kaiser.Sven-Erik@epa.gov>; Bogdanoff, Alec (Markey) <Alec_Bogdanoff@markey.senate.gov>
Subject: Re: Request for a Call on Asbestos/PCB TA

Great! Want to suggest times tomorrow afternoon after 1:30 or Thursday (I'm fairly open)? Looping Alec also so he can find a time that works for both of us (I'm out today)

Thanks
Michal
Michal Ilana Freedhoff, Ph.D.
Director of Oversight and Investigations
Office of Senator Edward J. Markey (D-MA)

From: Kaiser, Sven-Erik
Sent: Tuesday, November 1, 2016 2:54 PM
To: Freedhoff, Michal (Markey)
Subject: Request for a Call on Asbestos/PCB TA

Michal,

Do you have availability this week for a call to discuss the asbestos/PCB bill TA? Program and OGC folks have some followup questions on the bills that would be easier to handle via discussion.

In addition, I expect today or tomorrow to be able to send you:

- estimated costs and energy savings on light ballast replacement
- TSCA reform implementation questions on conditions of use, first 10 chems, and section 5 and 6 interplay

Please let me know if any questions. Thanks,
Sven

Sven-Erik Kaiser
U.S. EPA
Office of Congressional and Intergovernmental Relations
1200 Pennsylvania Ave., NW (1305A)
Washington, DC 20460
202-566-2753

Message

From: Kaiser, Sven-Erik [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AC78D3704BA94EDBBD0DA970921271FF-SKAISER]
Sent: 3/11/2016 3:22:39 PM
To: 'Freedhoff, Michal (Markey)' [Michal_Freedhoff@markey.senate.gov]
Subject: RE: Sen. Markey TSCA TA request - House fees

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From: Freedhoff, Michal (Markey) [mailto:Michal_Freedhoff@markey.senate.gov]
Sent: Friday, March 11, 2016 5:05 AM
To: Kaiser, Sven-Erik <Kaiser.Sven-Erik@epa.gov>; Black, Jonathan (Tom Udall) <Jonathan_Black@tomudall.senate.gov>; Deveny, Adrian (Merkley) <Adrian_Deveny@merkle.senate.gov>
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Michal Ilana Freedhoff, Ph.D.
Director of Oversight and Investigations
Office of Senator Edward J. Markey (D-MA)

From: Kaiser, Sven-Erik
Sent: Thursday, March 10, 2016 5:45 PM

To: Freedhoff, Michal (Markey); Black, Jonathan (Tom Udall); Deveny, Adrian (Merkley)
Subject: Sen. Markey TSCA TA request - House fees

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1200 Pennsylvania Ave., NW (1305A)
Washington, DC 20460
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From: Freedhoff, Michal (Markey) [mailto:Michal_Freedhoff@markey.senate.gov]
Sent: Thursday, March 10, 2016 3:33 PM
To: Kaiser, Sven-Erik <Kaiser.Sven-Erik@epa.gov>
Cc: Black, Jonathan (Tom Udall) <Jonathan_Black@tomudall.senate.gov>; Deveny, Adrian (Merkley) <Adrian_Deveny@merkley.senate.gov>
Subject: TA request - House fees

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Director of Oversight and Investigations
Office of Senator Edward J. Markey (D-MA)

Message

From: Kaiser, Sven-Erik [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AC78D3704BA94EDBBD0DA970921271FF-SKAISER]
Sent: 4/21/2016 2:01:49 AM
To: Freedhoff, Michal (Markey) [Michal_Freedhoff@markey.senate.gov]
Subject: Sen Markey TSCA TA Re: confidential draft

Michal,

We went through the narrative points below and would be happy to walk you through our TA. Please let me know best time Thurs morning. In addition we plan to provide TA on the nomenclature, animal testing and section 6 language as soon as possible. Please let me know if any questions. Thanks,
Sven

On Apr 20, 2016, at 6:33 PM, Freedhoff, Michal (Markey) <Michal_Freedhoff@markey.senate.gov> wrote:

Pls review. Section 6 coming soon.

Michal Ilana Freedhoff, Ph.D.
Director of Oversight and Investigations
Office of Senator Edward J. Markey (D-MA)

From: McCarthy, David <David.McCarthy@mail.house.gov>
Sent: Wednesday, April 20, 2016 6:29 PM
To: Jackson, Ryan (Inhofe); Karakitsos, Dimitri (EPW); Poirier, Bettina (EPW); Black, Jonathan (Tom Udall); Freedhoff, Michal (Markey)
Cc: Cohen, Jacqueline; Sarley, Chris; Couri, Jerry; Richards, Tina; Kessler, Rick
Subject: FW: confidential draft

On the House side we've been working hard to develop some fixes that can make a bi-par House vote possible:

On section 26 we will go with the draft as is, including Senate science language.

- On section 6 (April12 draft) - On page 2 – keep the factors to consider for selecting chemicals for prioritization but drop the requirement that EPA do a rulemaking for a year to articulate those standards.
- On page 4 keep the low priority designation but in the description of low priority substances, change “not likely to present” to “likely not to present”
- On page 4, delete the distinction for inactive substances
- On page 6-7, delete paragraph (C) –
- On page 8, line 13 delete (i) [info request] and (ii) [notice and comment]
- On page 10, line 17, delete (B) This is covered by our section 26
- On page 12 – delete notice and comment on requests for risk evaluation. Seems to suggest that EPA prioritizes manufacturer risk evaluations, instead of first-come first-served. -

In the new language from Dimitri and Michal, keep the new arrangement for (c)(2)(A) [including new Senate treatment of “cost-effective”, etc] but in (c)(2)(A)(iv)(II) delete “quantifiable and non-quantifiable”
On articles in 6 delete “or category of articles” in one place but not both. It's not needed where bracketed below.
“(D) ARTICLES.—In selecting among prohibitions and other restrictions, the Administrator shall apply such prohibitions or other restrictions to an article or category of articles containing the chemical substance or mixture only to the extent necessary to address the identified risks from exposure to the chemical substance or mixture from the article [or

category of articles], so that the substance or mixture does not present an unreasonable risk identified in the risk evaluation conducted in accordance with subsection (b)(4)(A).

We're still working on 5, including considering a change to your SNU articles language.

-

On section 8:

Use either the short or long versions that you have sent us, but include the 2 savings clauses that were drafted earlier and which you guys have.

In section 14 some concerns about the distinction being drawn between non-emergency and emergency situations – if a release of the chemical substance has occurred or one or more people being treated have been exposed, it would seem like you have moved into the emergency category.

- On page 22, it might make sense to drop the distinction for inactive substances if we drop the extra bar for designating those as high priority.

-

On section 4:

- Permit section 4(a) testing when a chemical may present an unreasonable risk by order as well as by rule. Keep tiered testing, but tweak it:

“(4) TIERED TESTING.—When requiring the development of new information under this subsection, the Administrator shall *consider employing* a tiered screening and testing process, under which the results of screening-level tests or assessments of available information inform the decision as to whether 1 or more additional tests are necessary, unless information available to the Administrator justifies more advanced testing of potential health or environmental effects or potential exposure without first *considering* [conducting] screening-level testing.”;

<animal_02_xml.pdf>

<nomenclature with savings.pdf>

Message

From: Kaiser, Sven-Erik [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AC78D3704BA94EDBBD0DA970921271FF-SKAISER]
Sent: 11/29/2016 5:21:20 PM
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Subject: Notification: EPA Names First 10 Chemicals for Review Under New TSCA

Today EPA is announcing the first ten chemicals it will evaluate for potential risks to human health and the environment under new TSCA.

The first ten chemicals to be evaluated are:

- 1,4-Dioxane
- 1-Bromopropane
- Asbestos
- Carbon Tetrachloride
- Cyclic Aliphatic Bromide Cluster (HBCD)
- Methylene Chloride (MC)
- N-methylpyrrolidone (NMP)
- Pigment Violet 29
- Tetrachloroethylene, also known as perchloroethylene (perc)
- Trichloroethylene (TCE)